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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,793	09/03/2003	Rolf Bruck	E-80042	4527
24131	7590	02/17/2005	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			KENNY, STEPHEN	
			ART UNIT	PAPER NUMBER
			3726	
DATE MAILED: 02/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/653,793		BRUCK, ROLF	
	Examiner		Art Unit	
	Stephen J Kenny		3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Toshiaki (JP 01012018).

Regarding claims 1-3, Toshiaki discloses a process for producing a metallic honeycomb body comprising for a catalytic converter forming passages for an exhaust gas: comprises the following steps: forming a void (50-52) in a metal foil and subsequently structuring the metal foils at least partially; processing the at least partially structured metal foils with a process selected from the group of stacking and winding to form a honeycomb structure with passages for conducting a gas therethrough (Figure 2), and to place the at least one metal foil such that the void defines a receptacle extending into an interior of the honeycomb structure and being configured to receive therein a sensor device (40); providing a tubular casing (11) with an opening and introducing the honeycomb structure into the tubular casing, with the opening at least partly aligned with the receptacle; and connecting the metal foils and the tubular suitable joining technique (Figure 5).

Regarding claims 6-7, 9 Toshiaki discloses stacking the metal coils (Figure 3), and then winding (Figure 2); as well as the voids being U shaped recesses (Figure 2); wherein the profile follows a profile of the metal foils (Figure 2).

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Regarding claim 10, Toshiaki discloses inserting the sensor having a shape corresponding to the receptacle (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5, 8, & 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiaki.

Toshiaki discloses the claimed invention except for the specific dimensions as claimed. It would have been an obvious matter of design choice to form a catalytic converter as disclosed by Toshiaki having the particular dimensions claimed, since applicant has not disclosed that such dimensions solve any stated problem or are for any particular purpose.

Response to Arguments

Applicant's arguments filed 1/21/05 have been fully considered but they are not persuasive.

Applicant has put forth the argument that the Toshiaki reference fails to disclose "subsequently structuring the metal foils at least partially". The examiner points out that the Toshiaki reference indeed discloses this feature in the following ways:

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1) by way of the winding/stacking the foils as indicated in Figure 2. In other words Toshiaki meets the limitations of the claims by forming voids (50) in the foils, followed by a simultaneous “structuring at least partially” and winding of the foils into the honeycomb structure.

2) forming voids (50) in the foils, followed by a winding operation, and then “after winding it, making these holes accord with each other” (Abstract – Purpose, line 3). The only temporal order of processes is that the “structuring at least partially” occur after the voids have been formed, it is irrespective of when the winding function is performed.

Accordingly, the Toshiaki reference does indeed anticipate the claimed invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J Kenny whose telephone number is 571-272-4531. The examiner can normally be reached on mon - fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sk

S. Kenny



DAVID P. BRYANT
PRIMARY EXAMINER